

# **State of Illinois 91st General Assembly Final Senate Journal**

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SENATE

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SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIRST GENERAL ASSEMBLY

35TH LEGISLATIVE DAY

TUESDAY, APRIL 27, 1999

12:00 O'CLOCK NOON

The Senate met pursuant to adjournment.  
Senator Walter Dudycz, Chicago, Illinois, presiding.  
Prayer by Pastor John Hamilton, Laurel United Methodist Church,  
Springfield, Illinois.  
Senator Sieben led the Senate in the Pledge of Allegiance.

Senator Myers moved that reading and approval of the Journal of  
Monday, April 26, 1999 be postponed pending arrival of the printed  
Journal.

The motion prevailed.

## **LEGISLATIVE MEASURES FILED**

The following floor amendment to the Senate Bill listed below has  
been filed with the Secretary, and referred to the Committee on  
Rules:

Senate Amendment No. 2 to Senate Bill 580

The following floor amendment to the House Bill listed below has  
been filed with the Secretary, and referred to the Committee on

Rules:

Senate Amendment No. 1 to House Bill 2085

#### RESOLUTION RETURNED TO SPONSOR

Pursuant to Senate Rule 3-6(a), the Rules Committee determined that **Senate Resolution No. 88** is non-substantive and returned the resolution to its principal sponsor.

#### REPORTS FROM STANDING COMMITTEES

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Senator R. Madigan, Chairperson of the Committee on Insurance and Pensions to which was referred **House Bills numbered 1348 and 1469** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator R. Madigan, Chairperson of the Committee on Insurance and Pensions to which was referred **House Bills numbered 133 and 1622** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred **House Bills numbered 153, 321, 525, 541, 727, 841, 843, 895, 901, 1151, 1790, 1960 and 2298** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred **House Bill No. 845** reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government, to which was referred **House Joint Resolution No. 8** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **House Joint Resolution 8** was placed on the Secretary's Desk.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare to which was referred **House Bills numbered 240, 721, 1308, 1565, 1713, 1832, 1942, 2026, 2216, 2256, 2303 and 2676** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Syverson, Chairperson of the Committee on Public Health

and Welfare to which was referred **House Bills numbered 427, 1732, 1839, 2217 and 2308** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare, to which was referred **Senate Resolution No. 71** reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.

Under the rules, **Senate Resolution 71** was placed on the Secretary's Desk.

#### **READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

**House Bill No. 1502**, sponsored by Senator Molaro was taken up, read by title a first time and referred to the Committee on Rules.

**House Bill No. 1569**, sponsored by Senator Dillard was taken up, read by title a first time and referred to the Committee on Rules.

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**House Bill No. 860**, sponsored by Senator W. Jones was taken up, read by title a first time and referred to the Committee on Rules.

#### **READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME**

On motion of Senator Dillard, **House Bill No. 152** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Commerce and Industry, adopted and ordered printed:

##### **AMENDMENT NO. 1**

AMENDMENT NO. 1. Amend House Bill 152 by replacing the title with the following:

"AN ACT in relation to liquor distribution."; and  
by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Wine and Spirits Industry Fair Dealing Act of 1999.

Section 5. Definitions. As used in this Act:

"Commission" means the Illinois Liquor Control Commission.

"Distributorship" means a business relationship, either express or implied, whether oral or written, between a supplier of wine or spirits (other than (i) an Illinois winery or (ii) a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year) for resale and a distributor of such products in which the distributor is given the right to sell a designated product or products, in a generally defined geographic area, in exchange for an express or implied promise to market the product or products. A registration under the Liquor Control Act of 1934 as amended is a distributorship.

"Supplier" means a person who is a grantor of a wine or liquor distributorship in this State (other than (i) an Illinois winery or (ii) a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year).

"Distributor" means a person who is a grantee of a wine or liquor distributorship in this State.

"Agreement" means any contract, agreement, course of dealing, or arrangement, express or implied, whether oral or written, for a definite or indefinite period between a supplier (other than (i) an Illinois winery or (ii) a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year, and a distributor pursuant to which a distributor has been granted a distributorship).

"Good cause" means a failure by a distributor to comply with essential and reasonable requirements imposed upon the distributor by the supplier or bad faith in the performance of the distributorship agreement. The requirements may not be unreasonably discriminating either by their terms or in the methods or effects of enforcement as compared with requirements imposed on other similarly situated distributors by the supplier. The requirements may not be inconsistent with this Act or in violation of any law or regulation.

"Wine and liquor" means spirituous liquor or wine containing alcohol in excess of 10 percent by weight, but not including beer and other malt beverages.

"Person" means a natural person, partnership, joint venture, corporation, or other entity, and includes heirs, assigns, successors, personal representatives, and guardians.

"Illinois winery" means a winery located in Illinois.

Section 10. Legislative declaration; purposes and construction.

(a) The General Assembly makes the following findings and declarations:

(i) Pursuant to the 21st Amendment of the Constitution of the United States, the General Assembly has enacted the Liquor Control Act of 1934, which establishes a three-tier system of distribution of wine and spirits to the public.

(ii) This Act is enacted pursuant to authority of the State of Illinois and under the provisions of the 21st Amendment to the United States Constitution to promote the public's interest in fair, efficient, and competitive distribution of wine and liquor products.

(b) This Act shall be construed and applied to promote its underlying remedial purposes and policies.

(c) The provisions of this Act are of a public order and cannot be waived. Any contract or agreement purporting to do so is void and unenforceable to that extent.

(d) This Act shall govern all relations between distributors and suppliers to the full extent consistent with the constitutions of this State and of the United States. Accordingly, Section 35, which clarifies existing rights and obligations and establishes remedial provisions, applies to all agreements between a distributor and a supplier (other than agreements with an Illinois winery or a winery that has annual case sales in the State of Illinois less than or

equal to 10,000 cases per year) whether those agreements were entered into before or after the effective date of this Act. Sections 15 through 30 of this Act shall govern all agreements between a distributor and a supplier (other than agreements with an Illinois winery or a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year), entered into after the effective date of this Act, including any renewal of an agreement in existence on or before the effective date of this Act. Renewal of an agreement with a designated term or duration shall mean (i) establishment of a new term, (ii) extension of the agreement on any other basis, or (iii) shipment of wine or spirits to the distributor after the expiration of the designated term or duration. Renewal of an agreement in place on a month to month, year to year, or other periodic basis shall mean (i) continuation of the distributorship into the next month, year, or other period, (ii) extension of the distributorship on any other basis, or (iii) shipment of wine or spirits to a distributor after the expiration of the month or other periodic basis designated as the duration of the distributorship in the agreement. Renewal of an agreement without a designated term or duration shall mean shipment of wine or spirits to a distributor after the effective date.

(e) In accordance with Section 1.31 of the Statute on Statutes, the provisions of this Act are severable. If any provision or interpretation of this Act, or the application of such interpretation or provision to any distributorship, is held invalid, the application of the Act to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 15. Cancellation and alteration of distributorships. No supplier may cancel, fail to renew, otherwise terminate, or alter on a discriminatory basis an agreement unless the party intending that action has good cause for the cancellation, failure to renew, termination, or alteration and, in any case in which prior notification is required under Section 20, the party intending to act has furnished the prior notification and the affected party has not eliminated the reasons specified in the notification for cancellation, failure to renew, or termination within 90 days after the sending of the notification. Each party shall make a good faith effort to resolve disputes under this Section. The burden of proving good cause is on the party who asserts it.

Section 20. Notice of termination, cancellation, or alteration.

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(a) Except as provided in subsection (c) of this Section, no supplier may cancel, fail to renew, otherwise terminate, or alter an agreement unless the supplier furnishes prior notification to the affected party in accordance with subsection (b).

(b) The notification required under subsection (a) shall be in writing and sent to the affected party by certified mail not less than 90 days before the date on which the agreement will be cancelled, not renewed, otherwise terminated, or altered. The notification shall contain (i) a statement of intention to cancel, fail to renew, otherwise terminate, or alter an agreement, (ii) a complete statement of reasons therefore, including all data and documentation necessary to fully apprise the distributor of the

reasons for the action, (iii) the date on which the action shall take effect, and (iv) shall provide that the distributor has 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice shall be void.

(c) A supplier may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

(1) Distributor's assignment for the benefit of creditors, or similar disposition, of substantially all of the assets of such party's business.

(2) Insolvency of distributor or the institution of proceedings in bankruptcy by or against the distributor.

(3) Dissolution or liquidation of the distributor.

(4) Distributor's conviction of, or plea of guilty or no contest to, a charge of violating a law or regulation in this State that materially and adversely affects the ability of either party to continue to sell wine or liquor in this State, or the revocation or suspension of a license or permit to sell wine or liquor in this State.

(d) The notification required under subsection (a) shall be sent not less than 10 days before the date of the cancellation, non-renewal, termination, or alteration of the notice if the notice is based on (i) failure to pay any account when due and upon demand by the supplier for such payment, in accordance with agreed payment terms, or (ii) bad faith in the performance of the distributorship agreement. If the notice is based on a failure to pay any account, the distributor shall have 10 days in which to remedy the default. If the default in payment is remedied within 10 days, the notice shall be void.

Section 25. Action for damages and injunctive relief. Parties to a distributorship may bring an action in any court of competent jurisdiction for damages sustained as a consequence of the violation, and may also be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or other harm. For agreements entered into or renewed after the effective date of this Act, this remedy is an addition to the remedies provided in Section 35. It is the policy of this State to avoid unfair or wrongful terminations. Notwithstanding any provisions of any agreement between a supplier and a distributor, the venue for any such action shall be at the location of the distributorship and this Act shall apply.

Section 30. Application to arbitration agreements. An agreement between a supplier that is not an Illinois winery or a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year and a distributor providing for binding arbitration of disputes shall be valid and enforceable in accordance with the Federal Arbitration Act. In the event that a dispute concerning the existence of good cause for a termination, cancellation, nonrenewal, or other harm is resolved through arbitration, the definition of good cause and the substantive

provisions of this Act shall apply.

Section 35. Procedural provisions; good faith; role of Liquor Control Commission.

(a) This Section clarifies existing rights and obligations and establishes remedial procedures applicable to registrations under Section 6-9 of the Liquor Control Act of 1934.

(b) Under existing Illinois common and statutory law, suppliers, other than (i) Illinois wineries or (ii) wineries that have annual case sales in the State of Illinois less than or equal to 10,000 cases per year, who have or should have registered names of distributors under Section 6-9 of the Liquor Control Act of 1934, granting or confirming distributors rights to sell at wholesale in this State, have an obligation to act in good faith in all aspects of the registration and distributorship relationship, without discrimination or coercion under threat of retaliation or termination in bad faith, and in conformity with any emergency or final regulations issued by the Liquor Control Commission pursuant to Section 3-12 or 6-19 or other applicable provision of the Liquor Control Act of 1934 or by the Department of Revenue. Under the existing obligation to act in good faith, no registration or obligation to register under Section 6-9 may be terminated, nor may a supplier that is not an Illinois winery or a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year fail to renew or extend a product, name, brand, registration, or an agreement with a distributor except by acting in good faith in all aspects of the relationship, without discrimination or coercion, and not in retaliation or as a result of the distributor's exercise of its right to petition the General Assembly, the Congress, or any other unit or form of government for any purpose, to any end, or for or against any proposition, provision, amendment, bill, resolution, judgment, decision, rule, regulation, or interpretation.

(c) In order to enforce the existing obligation of good faith with respect to registrations under Section 6-9, the Commission shall have power to:

(1) Prohibit or suspend any supplier that is not an Illinois winery or a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year or its successors or assigns found to have flagrantly or repeatedly violated the obligation described in this Section from selling any product or products governed under the Liquor Control Act of 1934 and the Twenty-First Amendment to the United States Constitution in Illinois.

(2) Order the supplier, if the supplier is not an Illinois winery or a winery that has annual case sales in the State of Illinois less than or equal to 10,000 cases per year, to continue providing products to a distributor at prices and quantities in effect for the distributorship prior to any termination or failure to renew that becomes the subject of a dispute or administrative proceedings under this Section until the matters in dispute are determined by an order which is final and non-reviewable.

Orders of the Liquor Control Commission entered under this Section shall be deemed orders as to which an emergency exists.

(d) Notwithstanding Section 30 of this Act, any aggrieved party under this Section may apply to the Commission for a finding that another party has violated this Section and request relief.

(e) Orders entered by the Commission under this Section shall be reviewable by the Circuit Court under the terms of the Administrative Review Law. In accordance with Section 3-110 of the Administrative

to be prima facie true and correct.

(f) No court shall enter a stay, restraining order, injunction, mandamus, or other order that has the effect of suspending, delaying, modifying, or overturning a Commission finding or determination under this Section before a full hearing and final decision on the merits of the Commission ruling, finding, or order.

Section 99. Effective date. This Act takes effect upon becoming law."

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 245** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 245, on page 3, immediately below line 29, by inserting the following:

"24. "Physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987."; and

on page 12, by replacing lines 29 through 31 with the following:  
"each contest by a physician licensed to practice medicine in all of its branches. The physician shall"; and  
on page 13, in line 1, by replacing "may ~~shall~~" with "shall".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 553** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 620** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 1464** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1464 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Local Gift Ban Act.

Section 5. Definitions. As used in this Act:

"Commission" means an ethics commission created by a unit of local government or school district as authorized by this Act.

"Elected official" means a person elected or appointed to an



elective office in a unit of local government or school district.

"Employee" means all full-time or part-time employees, elected officials, and appointed officials of units of local government, school districts, and the subsidiary bodies of units of local government and school districts. The inclusion or exclusion of elected and appointed officials who are non-salaried within the term "employee" is determined in accordance with Sections 40 and 45.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink,

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and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not the individual or electors are selected, nominated, elected, or appointed. The term includes an organization that makes expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a federal income tax deduction for trade or business expenses.

"Prohibited source" means any person or entity who:

(1) is seeking official action by the employee, by another employee directing the first employee, or by the employee's unit of local government or school district.

(2) does business or seeks to do business with the employee, with another employee directing the first employee, or with the employee's unit of local government or school district;

(3) conducts activities regulated by the employee, by another employee directing the first employee, or by the employee's unit of local government or school district;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the employee; or

(5) is subject to an ordinance or resolution of the employee's unit of local government or school district that regulates lobbying as authorized by the Lobbyist Registration Act.

"Subsidiary body of a unit of local government or school district" means any board, commission, or committee, created or authorized by statute or ordinance, of a unit of local government or school district.

"Ultimate jurisdictional authority" means the following:

(1) For an employee who is not an elected official, the elected or appointed official or subsidiary body of a unit of local government or school district with ultimate power to discipline the employee.

(2) For an elected official, the governing body of the unit of local government or school district of which he or she is an elected official.

"Unit of local government" is defined as in Section 1 of Article VII of the Illinois Constitution.

Section 10. Gift ban. Except as otherwise provided in this Act, no employee shall solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation or any ordinance or resolution. This ban applies to and includes spouses of and immediate family living with the employee. No prohibited source shall offer or make a gift that violates this Section.

Section 15. Exceptions. The restriction in Section 10 does not apply to the following:

(1) Anything for which the employee pays the market value or anything not used and promptly disposed of as provided in Section 25.

(2) A contribution, as defined in Article 9 of the Election Code, that is lawfully made under that Code or attendance at a fundraising event sponsored by a political organization.

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(3) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(4) Anything provided by an individual on the basis of a personal friendship unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the employee shall consider the circumstances under which the gift was offered, such as:

(i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) whether to the actual knowledge of the employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) whether to the actual knowledge of the employee the individual who gave the gift also at the same time gave the same or similar gifts to other employees.

(5) A commercially reasonable loan evidenced in writing with repayment due by a date certain made in the ordinary course of the lender's business.

(6) A contribution or other payments to a legal defense fund established for the benefit of an employee that is otherwise lawfully made.

(7) Intra-office and inter-office gifts. For the purpose of this Act, "intra-office gifts" and "inter-office gifts" mean:

(i) any gift given to an employee of a unit of local government or school district from another employee of that unit of local government or school district;

(ii) any gift given to an employee of a unit of local government or school district from an employee of another unit of local government or school district; or

(iii) any gift given to an employee of a unit of local government or school district from a member, judge, officer, or employee subject to the State Gift Ban Act, as those terms are defined in that Act.

(8) Food, refreshments, lodging, transportation, and other benefits:

(i) resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the employee as an employee) of the employee or the spouse of the employee, if the benefits have not been offered or enhanced because of the official position or employment of the employee and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization in connection with a fundraising or campaign event sponsored by that organization.

(9) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan.

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(10) Informational materials that are sent to the office of the employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(11) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.

(12) Honorary degrees (and associated travel, food, refreshments, and entertainment provided in the presentation of degrees and awards).

(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to an employee if the training is in the interest of the unit of local government or school district.

(14) Educational missions, including meetings with government officials either foreign or domestic, intended to educate public officials on matters of public policy, to which the employee may be invited to participate along with other federal, state, or local public officials and community leaders.

(15) Bequests, inheritances, and other transfers at death.

(16) Anything that is paid for by the federal government, the State, a unit of local government, or a school district, or secured by the government under a government contract.

(17) A gift of personal hospitality of an individual other than a regulated lobbyist or agent of a foreign principal, including hospitality extended for a nonbusiness purpose by an individual, not

a corporation or organization, at the personal residence of that individual or the individual's family or on property or facilities owned by that individual or the individual's family.

(18) Free attendance at a widely attended event permitted under Section 20.

(19) Opportunities and benefits that are:

(i) available to the public or to a class consisting of all employees whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to employment or official position;

(iii) offered to members of an organization such as an employee's association or credit union, in which membership is related to employment or official position and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among government employees on the basis of branch of government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(20) A plaque, trophy, or other item that is substantially commemorative in nature and that is extended for presentation.

(21) Golf or tennis; food or refreshments of nominal value and catered food or refreshments; meals or beverages consumed on the premises from which they were purchased.

(22) Donations of products from an Illinois company that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(23) An item of nominal value such as a greeting card, baseball cap, or T-shirt.

Section 20. Attendance at events.

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(a) An employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if:

(1) the employee participates in the event as a speaker or a panel participant, by presenting information related to government, or by performing a ceremonial function appropriate to the employee's official position or employment; or

(2) attendance at the event is appropriate to the performance of civic affairs in Illinois or the official duties or representative function of the employee.

(b) An employee who attends an event described in subsection (a) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(c) An employee, or the spouse or dependent of an employee, may

accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

(d) For purposes of this Section, the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees, except as authorized under subsection (21) of Section 15.

Section 25. Disposition of gifts. The recipient of a gift that is given in violation of this Act may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity.

Section 30. Reimbursement.

(a) A reimbursement (including payment in kind) to an employee from a private source other than a regulated lobbyist or agent of a foreign principal for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, fact finding trip, or similar event in connection with the duties of the employee as an employee shall be deemed to be a reimbursement to the unit of local government or school district and not a gift prohibited by this Act if the employee:

(1) discloses the expenses reimbursed or to be reimbursed and the authorization to the fiscal officer or similar authority within 30 days after the travel is completed; and

(2) in the case of an employee under direct supervision of another employee, receives advance authorization from the supervising employee to accept reimbursement.

(b) For purposes of subsection (a), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of an employee as an employee.

(c) Each advance authorization to accept reimbursement shall be signed by the employee under whose direct supervision the employee works and shall include:

(1) the name of the employee;

(2) the name of the person who will make the reimbursement;

(3) the time, place, and purpose of the travel; and

(4) a determination that the travel is in connection with the duties of the employee as an employee and would not create the appearance that the employee is using public employment for private gain.

(d) Each disclosure made under subsection (a) of expenses

reimbursed or to be reimbursed shall be signed by the employee or, in the case of an employee under direct supervision of another employee, by the supervising employee and shall include:

(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(2) a good faith estimate of total lodging expenses

reimbursed or to be reimbursed;

(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed; and

(5) a determination that all those expenses are necessary transportation, lodging, and related expenses.

Section 35. Ethics officer. Each unit of local government and school district must designate an ethics officer for the unit of local government or school district. An ethics officer may be the unit of local government's or school district's general counsel or other employee or may be an outside person or entity. An ethics officer must:

(1) review statements of economic interests and disclosure forms of employees before they are filed with the county clerk; and

(2) provide guidance to employees in the interpretation and implementation of this Act.

Section. 37. Further restrictions. A unit of local government or school district may adopt or maintain policies that are more restrictive than those set forth in this Act.

Section 40. County ethics commission.

(a) The corporate authorities of each county must create an ethics commission by ordinance and must appoint the commission within 60 days after the effective date of this Act. The commission must consist of 3, 5, or 7 members, all of whom must be residents of the county.

(b) The ordinance must specify whether appointed and elected officials who are non-salaried are exempt from the application of this Act.

(c) Commission members may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(d) In addition to complaints alleging violations of this Act by county employees, a county ethics commission must investigate complaints alleging violations of this Act by employees of another unit of local government or a school district in accordance with subsection (b) of Section 45.

Section 45. Other ethics commissions.

(a) Except as provided in subsection (b), the corporate authorities of each unit of local government, other than a county, and each school district must create an ethics commission by ordinance or resolution, as appropriate, and appoint the commission within 60 days after the effective date of this Act. The commission must consist of 3, 5, or 7 members, all of whom must be residents of the unit of local government or school district. The ordinance or resolution must specify whether appointed and elected officials who are non-salaried are exempt from the application of this Act. Commission members may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(b) A unit of local government, other than a county, or school district may provide by ordinance or resolution, as appropriate, that complaints alleging violations of this Act by its employees must be filed with and investigated by the ethics commission of the county in which the majority of the territory of the unit of local government or school district lies. The ordinance or resolution must specify

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whether appointed and elected officials who are non-salaried are exempt from the application of this Act. The unit of local government or school district must provide the corporate authorities of the county with a copy of that ordinance or resolution. The county ethics commission must then act as the ethics commission for the unit of local government or school district.

The unit of local government or school district may enter into intergovernmental agreements with the county in accordance with Section 10 of Article VII of the Illinois Constitution for the implementation of this subsection, including payment of the county ethics commission's reasonable expenses incurred in investigating complaints filed against and recommending disciplinary measures for employees of the unit of local government or school district.

Section 50. Staff. Each commission may employ necessary staff persons and may contract for services that cannot be satisfactorily performed by the staff.

Section 55. Powers and duties. Each commission shall have the following powers and duties:

(1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

(2) Upon receipt of a signed, notarized, written complaint, to investigate, conduct research, conduct closed hearings and deliberations, issue recommendations, and impose a fine.

(3) To act only upon the receipt of a written complaint alleging a violation of this Act and not upon its own prerogative.

(4) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated this Act.

(5) To subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Act.

(6) To request that the State's Attorney provide legal advice without charge to the commission.

(7) To prepare and publish manuals and guides explaining the duties of individuals covered by this Act.

(8) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(9) To submit to each commissioner's respective appointing authority or authorities an annual statistical report for each year consisting of (i) the number of complaints filed, (ii) the number of complaints deemed to sufficiently allege a violation of this Act, (iii) the recommendation, fine, or decision issued for each complaint, (iv) the number of complaints resolved, and (v) the status of pending complaints.

The powers and duties of a commission are limited to matters clearly within the purview of this Act.

Section 60. Complaint procedure.

(a) Complaints alleging the violation of this Act shall be filed with the appropriate ethics commission as follows:

(1) If the complaint alleges a violation by an employee of a county, then the complaint shall be filed with the ethics commission of that county.

(2) If the complaint alleges a violation by an employee of a unit of local government other than a county or of a school district, then the complaint shall be filed with the ethics

commission of that unit of local government or school district or the ethics commission of the appropriate county if the unit of local government or school district has no ethics commission.

Any complaint received by or incident reported to an employee alleging the violation of this Act shall be forwarded to the appropriate commission. The complaint shall not be properly filed until submitted to the appropriate commission.

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(b) Within 3 business days after the receipt of an ethics complaint, the commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 3 business days after the submittal to the commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting on the sufficiency of the complaint and probable cause.

(c) Upon at least 24 hours' public notice of the session, the commission shall meet in a closed session to review the sufficiency of the complaint and, if the complaint is deemed to sufficiently allege a violation of this Act, to determine if there is probable cause, based on evidence presented by the complainant, to proceed. The commission shall issue notice to the complainant and the respondent of the commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause within 7 business days after receiving the complaint. If the complaint is deemed to sufficiently allege a violation of this Act and there is a determination of probable cause, then the commission's notice to the parties shall include a hearing date scheduled within 4 weeks after the complaint's receipt. If the complaint is deemed not to sufficiently allege a violation or if there is no determination of probable cause, then the commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

(d) On the scheduled date and upon at least 24 hours' public notice of the meeting, the commission shall conduct a closed meeting on the complaint and allow both parties the opportunity to present testimony and evidence.

(e) Within 6 weeks after the complaint's receipt, the commission shall (i) dismiss the complaint or (ii) issue a preliminary recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both. The particular findings in the instant case, the preliminary recommendation, and any fine shall be made public.

(f) Within 7 business days after the issuance of the preliminary recommendation or imposition of a fine, or both, the respondent may file a written demand for a public hearing on the complaint. The filing of the demand shall stay the enforcement of the preliminary recommendation or fine. Within 2 weeks after receiving the demand, the commission shall conduct a public hearing on the complaint after at least 24 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within 5



business days, the commission shall publicly issue a final recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both.

(g) If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the commission shall render its decision as required under subsection (e) within 7 days after the complaint is filed, and during the 7 days preceding that election, the commission shall render such decision before the date of that election, if possible.

(h) A commission may levy a fine of up to \$5,000 against any person who knowingly files a frivolous complaint alleging a violation of this Act.

(i) A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

#### Section 65. Enforcement.

(a) A commission may recommend to a person's ultimate

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jurisdictional authority disciplinary action against the person it determines to be in violation of this Act. The recommendation may prescribe the following courses of action:

(1) A reprimand.

(2) To cease and desist the offensive action.

(3) A return or refund of money or other items, or an amount of restitution for services, received in violation of this Act.

(4) Dismissal, removal from office, or expulsion.

(5) Donation to a charity of an amount equal to the gift.

(b) A commission may impose a fine of up to \$1,000 per violation to be deposited into the general fund of the violating employee's unit of local government or school district.

(c) An employee's ultimate jurisdictional authority may take disciplinary action against an employee (i) who violates this Act, (ii) who is the subject of a recommendation by an ethics commission, or (iii) described by both items (i) and (ii).

The ultimate jurisdictional authority may take disciplinary action recommended by an ethics commission, if any, or as it deems appropriate, to the extent it has constitutional and statutory authority to take that action.

The ultimate jurisdictional authority shall make its action, or determination to take no action, available to the public.

(d) If after a hearing the commission finds no violation of this Act, the commission shall dismiss the complaint.

Section 70. Penalty. An individual who knowingly violates this Act is guilty of a business offense and subject to a fine of up to \$5,000.

Section 73. Review. A commission's decision to dismiss a complaint or its recommendation is not a final administrative decision, but its imposition of a fine is a final administrative decision subject to judicial review under the Administrative Review Law of the Code of Civil Procedure.

Section 75. Exemption. The proceedings conducted and documents generated under this Act are exempt from the provisions of the Open Meetings Act and the Freedom of Information Act.

Section 80. Home rule preemption. A home rule unit may not regulate the prohibition of gifts to employees or the enforcement of these provisions in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 205. The Open Meetings Act is amended by changing Section 1.02 as follows:

(5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

Sec. 1.02. For the purposes of this Act:

"Meeting" means any gathering of a majority of a quorum of the commissioners of a public body held for the purpose of discussing public business.

"Public body" includes all legislative, executive, administrative or advisory bodies of the state, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" does not include a child death review team

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established under the Child Death Review Team Act or an ethics commission, ethics officer, or ultimate jurisdictional authority acting under the State Gift Ban Act as provided by Section 80 of that Act or the Local Gift Ban Act as provided by Section 75 of that Act.

(Source: P.A. 90-517, eff. 8-22-97; 90-737, eff. 1-1-99.)

Section 210. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7) (from Ch. 116, par. 207)

Sec. 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information

maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; and

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished

only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is

being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act. Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body,

until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans and engineers' technical submissions for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, to the extent that disclosure would compromise security.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under Article VII of the Code of Civil Procedure, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered

health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the State of Missouri under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under Section 80 of the State Gift Ban Act or Section 75 of the Local Gift Ban Act.

(ii) Beginning July 1, 1999, ~~(hh)~~ information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.  
(Source: P.A. 90-262, eff. 7-30-97; 90-273, eff. 7-30-97; 90-546,

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eff. 12-1-97; 90-655, eff. 7-30-98; 90-737, eff. 1-1-99; 90-759, eff. 7-1-99; revised 9-8-98.)

Section 215. The State Gift Ban Act is amended by changing Sections 5, 15, and 60 as follows:

(5 ILCS 425/5)

Sec. 5. Definitions. As used in this Act:

"Commission" means an ethics commission created by this Act.

"Employee" means all full-time, part-time, and contractual employees, appointed and elected officials, and directors of a governmental entity.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, officer, or judge.

"Governmental entity" means each office, board, commission, agency, department, authority, institution, university, body politic and corporate, administrative unit, and corporate outgrowth of the executive, legislative, and judicial branches of State government, whether created by the Illinois Constitution, by or in accordance with statute, or by executive order of the Governor. Governmental entity does not include units of local government, school districts, or subsidiary bodies of units of local government or school districts, as defined in the Local Gift Ban Act.

"Judge" means judges and associate judges of the Supreme Court, Appellate Courts, and Circuit Courts.

"Member" means a member of the General Assembly.

"Officer" means a State constitutional officer.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not the individual or electors are selected, nominated, elected, or appointed. The term includes the making of expenditures relating to an office described in the preceding sentence that, if incurred by the individual, would be allowable as a federal income tax deduction for trade or business expenses.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by the member, officer, or judge or (ii) in the case of an employee, by the employee or by the member, officer, judge, governmental entity, or other employee directing the employee;

(2) does business or seeks to do business (i) with the

member, officer, or judge or (ii) in the case of an employee, with the employee or with the member, officer, judge, governmental entity, or other employee directing the employee;

(3) conducts activities regulated (i) by the member, officer, or judge or (ii) in the case of an employee, by the employee or by the member, officer, judge, governmental entity, or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, employee, or judge; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act.

"Ultimate jurisdictional authority" means the following:

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(1) For members, partisan staff, and their secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, or Minority Leader of the House of Representatives.

(2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.

(3) For State employees who are professional staff or employees of the House of Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For judges, the Chief Justice of the Supreme Court.

(6) For State employees of the judicial branch, the Administrative Office of the Illinois Courts.

(7) For State employees of an executive branch constitutional officer, the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

(9) For officers, the General Assembly.

(Source: P.A. 90-737, eff. 1-1-99.)

(5 ILCS 425/15)

Sec. 15. Exceptions. The restriction in Section 10 does not apply to the following:

(1) Anything for which the member, officer, employee, or judge pays the market value or anything not used and promptly disposed of as provided in Section 25.

(2) A contribution, as defined in Article 9 of the Election Code that is lawfully made under that Act or attendance at a fundraising event sponsored by a political organization.

(3) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and



including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(4) Anything provided by an individual on the basis of a personal friendship unless the member, officer, employee, or judge has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer, employee, or judge and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the member, officer, employee, or judge shall consider the circumstances under which the gift was offered, such as:

(i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) whether to the actual knowledge of the member, officer, employee, or judge the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) whether to the actual knowledge of the member, officer, employee, or judge the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, employees, or judges.

(5) A commercially reasonable loan evidenced in writing with repayment due by a date certain made in the ordinary course of the lender's business.

(6) A contribution or other payments to a legal defense fund established for the benefit of a member, officer, employee, or judge that is otherwise lawfully made.

(7) Intra-office and inter-office gifts. For the purpose of this Act, "intra-office gifts" means:

(i) any gift given to a member or employee of the legislative branch from another member or employee of the legislative branch;

(ii) any gift given to a judge or employee of the judicial branch from another judge or employee of the judicial branch;

(iii) any gift given to an officer or employee of the executive branch from another officer or employee of the executive branch;

(iv) (blank); ~~any gift given to an officer or employee of a unit of local government, home rule unit, or school district, from another employee of that unit of local government, home rule unit, or school district;~~

(v) any gift given to an officer or employee of any other governmental entity not included in item (i), (ii), or (iii), ~~or (iv),~~ from another employee of that governmental entity; or

(vi) any gift given to a member or employee of the legislative branch, a judge or employee of the judicial branch, an officer or employee of the executive branch, ~~an officer or employee of a unit of local government, home rule unit, or school district,~~ or an officer or employee of any other governmental entity not included in item (i), (ii), or (iii), ~~or (iv)~~ from a member or employee of the legislative branch, a judge or employee

of the judicial branch, an officer or employee of the executive branch, an officer or employee of a unit of local government, home rule unit, or school district, or an officer or employee of any other governmental entity.

(8) Food, refreshments, lodging, transportation, and other benefits:

(i) resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the member, officer, employee, or judge, as an office holder or employee) of the member, officer, employee, judge, or the spouse of the member, officer, employee, or judge, if the benefits have not been offered or enhanced because of the official position or employment of the member, officer, employee, or judge and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization in connection with a fundraising or campaign event sponsored by that organization.

(9) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(10) Informational materials that are sent to the office of the member, officer, employee, or judge in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(11) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.

(12) Honorary degrees (and associated travel, food, refreshments, and entertainment provided in the presentation of

degrees and awards).

(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, employee, or judge, if the training is in the interest of the governmental entity.

(14) Educational missions, including meetings with government officials either foreign or domestic, intended to educate public officials on matters of public policy, to which the member, officer, employee, or judge may be invited to participate along with other federal, state, or local public officials and community leaders.

(15) Bequests, inheritances, and other transfers at death.

(16) Anything that is paid for by the federal government, the State, or a governmental entity, or secured by the government or governmental entity under a government contract.

(17) A gift of personal hospitality of an individual other than a registered lobbyist or agent of a foreign principal, including hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or the individual's family or on property or facilities owned by that individual or the individual's family.

(18) Free attendance at a widely attended event permitted under

Section 20.

(19) Opportunities and benefits that are:

(i) available to the public or to a class consisting of all employees, officers, members, or judges, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to employment or official position;

(iii) offered to members of an organization such as an employee's association or credit union, in which membership is related to employment or official position and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among government employees on the basis of branch of government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(20) A plaque, trophy, or other item that is substantially commemorative in nature and that is extended for presentation.

(21) Golf or tennis; food or refreshments of nominal value and catered food or refreshments; meals or beverages consumed on the premises from which they were purchased.

(22) Donations of products from an Illinois company that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(23) An item of nominal value such as a greeting card, baseball cap, or T-shirt.

(Source: P.A. 90-737, eff. 1-1-99.)

(5 ILCS 425/60)

Sec. 60. Complaint procedure.

(a) Complaints alleging the violation of this Act shall be filed with the appropriate ethics commission as follows:

(1) If the complaint alleges a violation by an officer or employee of the executive branch of State government, then the complaint shall be filed with the appropriate ethics commission

within the executive branch.

(2) If the complaint alleges a violation by a judge or employee of the judicial branch of government, then the complaint shall be filed with the judicial ethics commission.

(3) If the complaint alleges a violation by a member or employee of the legislative branch of State government ~~or any employee not included within paragraphs (1) or (2)~~, then the complaint shall be filed with the legislative ethics commission.

Any complaint received by or incident reported to a member, officer, employee, judge, or governmental entity alleging the violation of this Act shall be forwarded to the appropriate commission. The complaint shall not be properly filed until

submitted to the appropriate commission.

(b) Within 3 business days after the receipt of an ethics complaint, the commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 3 business days after the submittal to the commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting on the sufficiency of the complaint and probable cause.

(c) Upon at least 24 hours' public notice of the session, the commission shall meet in a closed session to review the sufficiency of the complaint and, if the complaint is deemed to sufficiently allege a violation of this Act, to determine if there is probable cause, based on evidence presented by the complainant, to proceed. The commission shall issue notice to the complainant and the respondent of the commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause within 7 business days after receiving the complaint. If the complaint is deemed to sufficiently allege a violation of this Act and there is a determination of probable cause, then the commission's notice to the parties shall include a hearing date scheduled within 4 weeks after the complaint's receipt. If the complaint is deemed not to sufficiently allege a violation or if there is no determination of probable cause, then the commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

(d) On the scheduled date and upon at least 24 hours' public notice of the meeting, the commission shall conduct a closed meeting on the complaint and allow both parties the opportunity to present testimony and evidence.

(e) Within 6 weeks after the complaint's receipt, the commission shall (i) dismiss the complaint or (ii) issue a preliminary recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both. The particular findings in the instant case, the preliminary recommendation, and any fine shall be made public.

(f) Within 7 business days after the issuance of the preliminary recommendation or imposition of a fine, or both, the respondent may file a written demand for a public hearing on the complaint. The filing of the demand shall stay the enforcement of the preliminary recommendation or fine. Within 2 weeks after receiving the demand, the commission shall conduct a public hearing on the complaint after at least 24 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within 5 business days, the commission shall publicly issue a final recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both.

(g) If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the commission shall render its decision as required under subsection (e)

within 7 days after the complaint is filed, and during the 7 days preceding that election, the commission shall render such decision before the date of that election, if possible.

(h) A commission may levy a fine of up to \$5,000 against any person who knowingly files a frivolous complaint alleging a violation of this Act.

(i) A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

(Source: P.A. 90-737, eff. 1-1-99.)

(5 ILCS 425/83 rep.)

(5 ILCS 425/85 rep.)

Section 220. The State Gift Ban Act is amended by repealing Sections 83 and 85.

Section 995. The State Mandates Act is amended by adding Section 8.23 as follows:

(30 ILCS 805/8.23 new)

Sec. 8.23. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 91st General Assembly.

Section 999. Effective date. This Act takes effect upon becoming law."

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Sullivan, **House Bill No. 1926** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on State Government Operations, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 1926 on page 1, line 11 by inserting "and their members" after "them".

There being no further amendments, the bill, as amended, was ordered to a third reading.

**REPORTS FROM RULES COMMITTEE**

Senator Weaver, Chairperson of the Committee on Rules, reported that the Committee recommends that **House Bills numbered 124, 230 and 1816** be re-referred from the Committee on Judiciary to the Committee on Rules.

Senator Weaver, Chairperson of the Committee on Rules, reported that the Committee recommends that **House Bill No. 1124** be re-referred from the Committee on Local Government to the Committee on Rules.

Senator Weaver, Chairperson of the Committee on Rules, during its April 27, 1999 meeting, reported the following House Bills have been assigned to the indicated Standing Committees of the Senate:

Education: **House Bills numbered 124, 230, 534, 1274, 1816 and 2188.**

Environment and Energy: **House Bills numbered 47 and 2016.**

Executive: **House Bills numbered 167, 702 and 2163.**

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Financial Institutions: **House Bills numbered 429 and 1740.**  
Insurance and Pensions: **House Bills numbered 1697 and 2713.**  
Judiciary: **House Bills numbered 227, 408, 526, 1195, 1278, 1511, 1774, 1813, 2219, 2726 and 2727.**  
Local Government: **House Bills numbered 860, 887 and 2281.**  
Public Health and Welfare: **House Bills numbered 733, 1452, 1773, 2170, 2196, 2627 and 2783.**  
Revenue: **House Bills numbered 305, 578, 1905 and 2648.**  
State Government Operations: **House Bill No. 1282.**  
Transportation: **House Bills numbered 286 and 1326.**

Senator Weaver, Chairperson of the Committee on Rules, during its Weaver meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations: **Senate Amendment No. 2 to Senate Bill 580.**  
Transportation: **Senate Amendment No. 1 to House Bill 2630; Senate Amendment No. 1 to House Bill 2792.**

Senator Weaver, Chairperson of the Committee on Rules, during its April 27, 1999 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Commerce and Industry: **Senate Resolution No. 85.**

#### **READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Weaver, **House Bill No. 7** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 46; Nays 5.

The following voted in the affirmative:

Berman	Fawell	Mahar	Shaw
Bomke	Geo-Karis	Myers	Sieben
Bowles	Halvorson	Noland	Silverstein
Burzynski	Jacobs	O'Daniel	Smith
Clayborne	Jones, E.	Parker	Sullivan
Cronin	Jones, W.	Peterson	Syverson
Cullerton	Karpiel	Petka	Trotter
DeLeo	Klemm	Radogno	Viverito
del Valle	Lauzen	Rauschenberger	Walsh, T.
Dillard	Lightford	Rea	Watson
Dudycz	Link	Shadid	Weaver
			Welch
			Mr. President

The following voted in the negative:

Hawkinson  
Madigan, L.  
Maitland  
Obama  
Walsh, L.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not

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adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Clayborne, **House Bill No. 107** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 58; Nays None.

The following voted in the affirmative:

Berman	Geo-Karis	Madigan, R.	Rea
Bomke	Halvorson	Mahar	Shadid
Bowles	Hawkinson	Maitland	Shaw
Burzynski	Hendon	Molaro	Sieben
Clayborne	Jacobs	Munoz	Silverstein
Cronin	Jones, E.	Myers	Smith
Cullerton	Jones, W.	Noland	Sullivan
DeLeo	Karpiel	Obama	Syverson
del Valle	Klemm	O'Daniel	Trotter
Demuzio	Lauzen	O'Malley	Viverito
Dillard	Lightford	Parker	Walsh, L.
Donahue	Link	Peterson	Walsh, T.
Dudycz	Luechtefeld	Petka	Watson
Fawell	Madigan, L.	Radogno	Weaver
			Welch
			Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Karpiel, **House Bill No. 392** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 59; Nays None.

The following voted in the affirmative:

Berman	Halvorson	Maitland	Shaw
Bomke	Hawkinson	Molaro	Sieben
Bowles	Hendon	Munoz	Silverstein
Burzynski	Jacobs	Myers	Smith
Clayborne	Jones, E.	Noland	Sullivan
Cronin	Jones, W.	Obama	Syverson
Cullerton	Karpiel	O'Daniel	Trotter
DeLeo	Klemm	O'Malley	Viverito
del Valle	Lauzen	Parker	Walsh, L.
Demuzio	Lightford	Peterson	Walsh, T.
Dillard	Link	Petka	Watson
Donahue	Luechtefeld	Radogno	Weaver
Dudycz	Madigan, L.	Rauschenberger	Welch
Fawell	Madigan, R.	Rea	Mr. President

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Geo-Karis

Mahar

Shadid

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Burzynski, **House Bill No. 902** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 58; Nays None.

The following voted in the affirmative:

Berman	Geo-Karis	Mahar	Rea
Bomke	Halvorson	Maitland	Shadid
Bowles	Hawkinson	Molaro	Shaw
Burzynski	Hendon	Munoz	Sieben
Clayborne	Jacobs	Myers	Silverstein
Cronin	Jones, W.	Noland	Smith
Cullerton	Karpiel	Obama	Sullivan
DeLeo	Klemm	O'Daniel	Syverson
del Valle	Lauzen	O'Malley	Trotter
Demuzio	Lightford	Parker	Viverito
Dillard	Link	Peterson	Walsh, L.
Donahue	Luechtefeld	Petka	Walsh, T.
Dudycz	Madigan, L.	Radogno	Watson
Fawell	Madigan, R.	Rauschenberger	Weaver
			Welch
			Mr. President



This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Peterson, **House Bill No. 1110** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 58; Nays None.

The following voted in the affirmative:

Berman	Geo-Karis	Madigan, R.	Rea
Bomke	Halvorson	Mahar	Shadid
Bowles	Hawkinson	Maitland	Shaw
Burzynski	Hendon	Molaro	Sieben
Clayborne	Jacobs	Munoz	Silverstein
Cronin	Jones, E.	Myers	Smith
Cullerton	Jones, W.	Noland	Sullivan
DeLeo	Karpiel	Obama	Syversen
del Valle	Klemm	O'Daniel	Trotter
Demuzio	Lauzen	O'Malley	Viverito
Dillard	Lightford	Parker	Walsh, L.
Donahue	Link	Peterson	Walsh, T.

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Dudycz	Luechtefeld	Petka	Watson
Fawell	Madigan, L.	Radogno	Weaver
			Welch
			Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lauzen, **House Bill No. 1155** having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote: Yeas 57; Nays None.

The following voted in the affirmative:

Berman	Geo-Karis	Madigan, R.	Rea
Bomke	Halvorson	Mahar	Shadid
Bowles	Hawkinson	Maitland	Shaw
Burzynski	Hendon	Molaro	Sieben

Clayborne	Jacobs	Munoz	Silverstein
Cronin	Jones, E.	Myers	Smith
Cullerton	Jones, W.	Noland	Sullivan
DeLeo	Karpel	Obama	Syverson
del Valle	Klemm	O'Daniel	Trotter
Demuzio	Lauzen	O'Malley	Viverito
Dillard	Lightford	Parker	Walsh, L.
Donahue	Link	Peterson	Walsh, T.
Dudycz	Luechtefeld	Radogno	Watson
Fawell	Madigan, L.	Rauschenberger	Weaver
			Welch

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:59 o'clock p.m., on motion of Senator Weaver, the Senate stood adjourned until Wednesday, April 28, 1999 at 12:00 o'clock noon.